

40 CFR Part 761

Subpart D—Storage and Disposal

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§ 761.50 Applicability.

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(a) *General PCB disposal requirements.* Any person storing or disposing of PCB waste must do so in accordance with subpart D of this part. The following prohibitions and conditions apply to all PCB waste storage and disposal:

- (1) No person may open burn PCBs. Combustion of PCBs approved under §761.60 (a) or (e), or otherwise allowed under part 761, is not open burning.
 - (2) No person may process liquid PCBs into non-liquid forms to circumvent the high temperature incineration requirements of §761.60(a).
 - (3) No person may discharge water containing PCBs to a treatment works (as defined §503.9(aa) of this chapter) or to navigable waters unless the PCB concentration is <3 µg/L (approximately 3 ppb), or unless the discharge is in accordance with a PCB discharge limit included in a permit issued under section 307(b) or 402 of the Clean Water Act.
 - (4) Spills and other uncontrolled discharges of PCBs at concentrations of ≥50 ppm constitute the disposal of PCBs.
 - (5) Any person land disposing of non-liquid PCBs may avoid otherwise-applicable sampling requirements by presuming that the PCBs disposed of are ≥500 ppm (or ≥100 µg/100 cm² if no free-flowing liquids are present).
 - (6) Any person storing or disposing of PCBs is also responsible for determining and complying with all other applicable Federal, State, and local laws and regulations.
- (b) *PCB waste* — (1) *PCB liquids.* Any person removing PCB liquids from use (i.e., not PCB remediation waste) must dispose of them in accordance with §761.60(a), or decontaminate them in accordance with §761.79.
- (2) *PCB Items.* Any person removing from use a PCB Item containing an intact and non-leaking PCB Article must dispose of it in accordance with §761.60(b), or decontaminate it in accordance with §761.79. PCB Items where the PCB Articles are no longer intact and non-leaking are regulated for disposal as PCB bulk product waste under §761.62(a) or (c).
- (i) Fluorescent light ballasts containing PCBs only in an intact and non-leaking PCB Small Capacitor are regulated for disposal under §761.60(b)(2)(ii).
 - (ii) Fluorescent light ballasts containing PCBs in the potting material are regulated for disposal as PCB bulk product waste under §761.62.
- (3) *PCB remediation waste.* PCB remediation waste, including PCB sewage sludge, is regulated for cleanup and disposal in accordance with §761.61.

(i) Any person responsible for PCB waste at as-found concentrations ≥ 50 ppm that was either placed in a land disposal facility, spilled, or otherwise released into the environment prior to April 18, 1978, regardless of the concentration of the spill or release; or placed in a land disposal facility, spilled, or otherwise released into the environment on or after April 18, 1978, but prior to July 2, 1979, where the concentration of the spill or release was ≥ 50 ppm but < 500 ppm, must dispose of the waste as follows:

(A) Sites containing these wastes are presumed not to present an unreasonable risk of injury to health or the environment from exposure to PCBs at the site. However, the EPA Regional Administrator may inform the owner or operator of the site that there is reason to believe that spills, leaks, or other uncontrolled releases or discharges, such as leaching, from the site constitute ongoing disposal that may present an unreasonable risk of injury to health or the environment from exposure to PCBs at the site, and may require the owner or operator to generate data necessary to characterize the risk. If after reviewing any such data, the EPA Regional Administrator makes a finding, that an unreasonable risk exists, then he or she may direct the owner or operator of the site to dispose of the PCB remediation waste in accordance with §761.61 such that an unreasonable risk of injury no longer exists.

(B) Unless directed by the EPA Regional Administrator to dispose of PCB waste in accordance with paragraph (b)(3)(i)(A) of this section, any person responsible for PCB waste at as-found concentrations ≥ 50 ppm that was either placed in a land disposal facility, spilled, or otherwise released into the environment prior to April 18, 1978, regardless of the concentration of the spill or release; or placed in a land disposal facility, spilled, or otherwise released into the environment on or after April 18, 1978, but prior to July 2, 1979, where the concentration of the spill or release was ≥ 50 ppm but < 500 ppm, who unilaterally decides to dispose of that waste (for example, to obtain insurance or to sell the property), is not required to clean up in accordance with §761.61. Disposal of the PCB remediation waste must comply with §761.61. However, cleanup of those wastes that is not in complete compliance with §761.61 will not afford the responsible party with relief from the applicable PCB regulations for that waste.

(ii) Any person responsible for PCB waste at as-found concentrations ≥ 50 ppm that was either placed in a land disposal facility, spilled, or otherwise released into the environment on or after April 18, 1978, but prior to July 2, 1979, where the concentration of the spill or release was ≥ 500 ppm; or placed in a land disposal facility, spilled, or otherwise released into the environment on or after July 2, 1979, where the concentration of the spill or release was ≥ 50 ppm, must dispose of it in accordance with either of the following:

(A) In accordance with the PCB Spill Cleanup Policy (Policy) at subpart G of this part, for those PCB remediation wastes that meet the criteria of the Policy. Consult the Policy for a description of the spills it covers and its notification and timing requirements.

(B) In accordance with §761.61. Complete compliance with §761.61 does not create a presumption against enforcement action for penalties for any unauthorized PCB disposal.

(iii) The owner or operator of a site containing PCB remediation waste has the burden of proving the date that the waste was placed in a land disposal facility, spilled, or otherwise released into the environment, and the concentration of the original spill.

(4) PCB bulk product waste —(i) *General.* Any person disposing of PCB bulk product waste must do so in accordance with §761.62. PCB bulk product waste, as that term is defined in §761.3, is waste that was ≥ 50 ppm when originally removed from service, even if its current PCB concentration is < 50 ppm. PCB bulk product waste is regulated for disposal based on the risk from the waste once disposed of. For waste which is land disposed, the waste is regulated based on how readily the waste is released from disposal to the environment, in particular by leaching out from the land disposal unit.

(ii) Metal surfaces in contact with PCBs. Any person disposing of metal surfaces in contact with PCBs (e.g., painted metal) may use thermal decontamination procedures in accordance with §761.79(c)(6) (see §761.62(a)(6)).

(5) PCB household waste. Any person storing or disposing of PCB household waste, as that term is defined in §761.3, must do so in accordance with §761.63.

(6) PCB research and development waste. Any person disposing of PCB wastes generated during and as a result of research and development for use under §761.30(j), or for disposal under §761.60(j), must do so in accordance with §761.64.

(7) PCB/Radioactive waste. (i) Any person storing PCB/radioactive waste ≥50 ppm PCBs must do so taking into account both its PCB concentration and its radioactive properties, except as provided in §761.65(a)(1), (b)(1)(ii), and (c)(6)(i).

(ii) Any person disposing of PCB/radioactive waste must do so taking into account both its PCB concentration and its radioactive properties. If, taking into account only the properties of the PCBs in the waste (and not the radioactive properties of the waste), the waste meets the requirements for disposal in a facility permitted, licensed, or registered by a State as a municipal or non-municipal non-hazardous waste landfill (e.g., PCB bulk product waste under §761.62(b)(1)), then the person may dispose of the PCB/radioactive waste, without regard to the PCB component of the waste, on the basis of its radioactive properties in accordance with all applicable requirements for the radioactive component of the waste.

(8) Porous surfaces. In most cases a person must dispose of porous surfaces as materials where PCBs have penetrated far beneath the surface, rather than a simple surface contamination. Any person disposing of porous surfaces on which PCBs have been spilled and meeting the definition of PCB remediation waste at §761.3 must do so in accordance with §761.61. Any person disposing of porous surfaces which are part of manufactured non-liquid products containing PCBs and meeting the definition of PCB bulk product waste at §761.3 must do so in accordance with §761.62. Any person may decontaminate concrete surfaces upon which PCBs have been spilled in accordance with §761.79(b)(4), if the decontamination procedure is commenced within 72 hours of the initial spill of PCBs to the concrete or portion thereof being decontaminated. Any person may decontaminate porous non-liquid PCBs in contact with non-porous surfaces, such as underground metal fuel tanks coated with fire retardant resin or pitch, for purposes of unrestricted use or disposal in a smelter in accordance with §761.79(b)(3).

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§ 761.3 Definitions.

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For the purpose of this part:

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PCB bulk product waste means waste derived from manufactured products containing PCBs in a non-liquid state, at any concentration where the concentration at the time of designation for disposal was ≥50 ppm PCBs. PCB bulk product waste does not include PCBs or PCB Items regulated for disposal under §761.60(a) through (c), §761.61, §761.63, or §761.64. PCB bulk product waste includes, but is not limited to:

(1) Non-liquid bulk wastes or debris from the demolition of buildings and other man-made structures manufactured, coated, or serviced with PCBs. PCB bulk product waste does not include debris from the demolition of buildings or other man-made structures that is contaminated by spills from regulated PCBs which have not been disposed of, decontaminated, or otherwise cleaned up in accordance with subpart D of this part.

(2) PCB-containing wastes from the shredding of automobiles, household appliances, or industrial appliances.

(3) Plastics (such as plastic insulation from wire or cable; radio, television and computer casings; vehicle parts; or furniture laminates); preformed or molded rubber parts and components; applied dried paints,

varnishes, waxes or other similar coatings or sealants; caulking; adhesives; paper; Galbestos; sound deadening or other types of insulation; and felt or fabric products such as gaskets.

(4) Fluorescent light ballasts containing PCBs in the potting material.

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PCB Item means any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.

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PCB remediation waste means waste containing PCBs as a result of a spill, release, or other unauthorized disposal, at the following concentrations: Materials disposed of prior to April 18, 1978, that are currently at concentrations ≥ 50 ppm PCBs, regardless of the concentration of the original spill; materials which are currently at any volume or concentration where the original source was ≥ 500 ppm PCBs beginning on April 18, 1978, or ≥ 50 ppm PCBs beginning on July 2, 1979; and materials which are currently at any concentration if the PCBs are spilled or released from a source not authorized for use under this part. PCB remediation waste means soil, rags, and other debris generated as a result of any PCB spill cleanup, including, but not limited to:

(1) Environmental media containing PCBs, such as soil and gravel; dredged materials, such as sediments, settled sediment fines, and aqueous decantate from sediment.

(2) Sewage sludge containing < 50 ppm PCBs and not in use according to §761.20(a)(4); PCB sewage sludge; commercial or industrial sludge contaminated as the result of a spill of PCBs including sludges located in or removed from any pollution control device; aqueous decantate from an industrial sludge.

(3) Buildings and other man-made structures (such as concrete floors, wood floors, or walls contaminated from a leaking PCB or PCB-Contaminated Transformer), porous surfaces, and non-porous surfaces.
